



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Accountancy
Virginia Administrative Code (VAC) citation	18 VAC 5-30
Regulation title	Board of Accountancy Regulations
Action title	Licensure Fee Adjustment
Date this document prepared	December 21, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

To ensure that future revenues are sufficient to cover agency operating expenses and build cash balances in the Special Enforcement Fund. The Board's last fee increase was in 1991. Since that time, the Board has decreased fees three times despite the fact that expenditures have risen steadily. Cash basis expenditures exceeded revenues last year and an even larger deficit is projected for the current fiscal year. The Board has been able to cover these deficits through transfers from its Special Enforcement Fund but cash balances in the Special Enforcement Fund will soon be exhausted if a fee increase is not implemented.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board of Accountancy has legal authority to revise its fee structure per Chapter 44 of Title 54.1 of the Code of Virginia; specifically, §54.1-4403.4 which states, "The Board shall have the power and duty

to...levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are sufficient to cover all expenses of the administration and operation of the Board.”

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

At its meeting on December 12, 2007, the Board of Accountancy by unanimous vote approved filing a notice of intended regulatory action (NOIRA) to begin seeking input from the Board’s regulants and the public in its deliberations in an effort to ensure no unnecessary burden would be imposed its regulants or public by the proposed fee increase. In addition, the Board’s last audit report highlighted the need for the Board to develop a consistent funding strategy for its Special Enforcement Fund and action is needed to avoid a repeat audit point.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The Board is considering one of three alternative fee structures. All three models result in positive cash flows in both the Operating and Special Enforcement Funds. Each model assumes \$10 from each renewal fee will be transferred to the Special Enforcement Fund beginning in FY2011, allowing the Fund to grow to \$2,000,000 by the end of FY2016.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Due to the requirements of the Administrative Processes Act, fee increases take two or more years to implement. The projections assume that increased revenues from new fees will be collected in FY 2010 (the 2008-10 biennium)

Proposal A – Under this proposal, individual renewal fees would increase to \$55. The \$55 individual renewal fee is the same as that paid in 1991. Firm fees would increase to \$150, which is more than the 1991 fee structure and the highest of the three proposals. There would be no change to the current exam fee but the proposal includes a new \$25 re-exam fee.

Proposal B – Under this proposal, individual renewal fees would increase to \$60, which is \$5 more than the 1991 fee structure. Firm fees would increase to \$120. There would be no change to the current exam fee but the proposal includes a new \$15 re-exam fee.

Proposal C – This proposal assists new applicants to enter the profession by assessing a lower first time application fee. First time applicants would pay a \$30 application fee while individual renewal fees increase to \$60. Firms would pay \$140 for both applications and renewal. There would be no change to the current exam fee but the proposal would include a new \$15 re-exam fee.

All three proposals provide sufficient revenues to fund the Board ongoing operations and transfers to the Board’s Special Enforcement Fund for 3 biennia (i.e., through the end of FY16). These projections could change if the Board's expenses, activities, or revenues vary from current trends. The Board will continue to monitor these activities and determine their impact. Updated information, projections, and recommendations will be provided as needed for the Board’s continued consideration.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The Board of Accountancy is seeking comments pertaining to the proposed fee increase, including but not limited to (1) ideas to assist in the development of a proposal, (2) the costs and benefits of the alternatives identified or other alternatives, and (3) potential impacts of the increase. The Board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (1) projected reporting, record keeping and other administrative costs, (2) probable effect of a fee increase on small businesses, and (3) description of less intrusive or costly alternative methods of achieving the purpose.

Anyone wishing to submit written comments may do so by **mail, email or fax** to Nancy Taylor Feldman, Executive Director, Board of Accountancy, 9960 Mayland Drive, Suite 402, Richmond, Virginia 23233, TEL: (804) 367-8505, EMAIL: boa@boa.virginia.gov, FAX: (804) 527-4409. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board of Accountancy will use the participatory approach to develop a proposal if it receives at least 10 written requests to use the participatory approach prior to the end of the public comment period. Persons requesting the Board use the participatory approach and interested in assisting in the development of a proposal should notify Nancy Taylor Feldman, Executive Director of the Board, by the end of the comment period and provide their name, address, telephone number, email address and their organization (if any). Notification of the composition of the advisory committee will be sent to all applicants.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Based upon its review and input received from its regulants and the public, the Board of Accountancy will assess the impact any proposed fee increase will have on the institution of the family and family stability. The goals of the Board while determining a fee increase will include developing a proposal that (1) will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; (2) will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse and one's children and/or elderly parents; (3) will not strengthen or erode the marital commitment; and (4) will have a minimal impact on disposable family income.